



02 JUN 2003

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1940 DUKE STREET  
ALEXANDRIA VA 22314

In re Application of	:	
HIRATSUKA et al.	:	
Application No.: 09/674,279	:	DECISION
PCT No.: PCT/JP99/04984	:	
Int. Filing Date: 13 September 1999	:	
Priority Date: None	:	
Attorney Docket No.: 198167US	:	
For: ELECTRIC DOUBLE LAYER CAPACITOR	:	

This decision is in response to applicants' "PETITION UNDER 37 CFR 1.181 FOR CORRECTED NOTICE OF ACCEPTANCE" filed 18 December 2002.

### **BACKGROUND**

On 13 September 1999, applicant filed international application PCT/JP99/04984, which designated the United States. A copy of the international application was communicated to the United States Patent and Trademark Office (USPTO) from the International Bureau on 22 March 2001. The twenty-month period for paying the basic national fee in the United States expired at midnight on 13 March 2001.

On 30 October 2000, applicant filed a submission for entry into the national stage in the United States which was accompanied by, *inter alia*, the U.S. Basic National Fee and a translation of the international application into English.

On 04 December 2000, the United States Designated/Elected Office (DO/EO/US) mailed a NOTIFICATION OF MISSING REQUIREMENTS UNDER 35 U.S.C. 371 (Form PCT/DO/EO/905) indicating, *inter alia*, that an oath or declaration of the inventors in compliance with 37 CFR 1.497(a)-(b) and the surcharge under 37 CFR 1.492(e) for providing the oath or declaration later than thirty months from the earliest priority date were required.

On 27 June 2001, applicants submitted a "REQUEST FOR ISSUANCE OF NOTICE OF ACCEPTANCE" requesting a 371(c) date of 30 October 2000. This request was accompanied by a copy of a date-stamped postcard receipt.

On 18 July 2001, a submission was filed including a Transmittal Letter, a declaration of an inventor, a Power of Attorney, and the surcharge under 37 CFR 1.492(e). The Transmittal

Letter, the declaration, and the Power of Attorney all indicate the application number as 09/647,279. The submission was inadvertently placed in the above-identified application.

On 26 December 2001, the DO/EO/US, apparently relying on the 18 July 2001 submission, mailed a NOTICE OF ACCEPTANCE OF APPLICATION UNDER 35 U.S.C. 371 indicating the 35 U.S.C. 371(c) date as 18 July 2001.

On 18 December 2002, applicants submitted the instant "PETITION UNDER 37 CFR 1.181 FOR CORRECTED NOTICE OF ACCEPTANCE" requesting that the 35 U.S.C. 371(c) date be changed to 30 October 2000. This petition was accompanied by a copy of a date-stamped postcard receipt.

### **DISCUSSION**

A review of the application file reveals that a declaration filed on 30 October 2000 is not located therein.

The postcard receipt submitted by applicants may be sufficient to establish that on 30 October 2000 the United States Designated/Elected Office (DO/EO/US) received a declaration of the inventors. However, applicant has not provided a true copy of the declaration filed 30 October 2000. Accordingly, the requirements of 35 U.S.C. 371 have not been met. Accordingly, the NOTICE OF ACCEPTANCE OF APPLICATION UNDER 35 U.S.C. 371 mailed 26 December 2001 is hereby VACATED. It is also noted that the Transmittal Letter filed 30 October 2002 does not indicate that an oath or declaration was filed at that time.

As to the submission filed 18 July 2001, it has been removed from the instant file and will be matched with the proper application.

The application is abandoned as to the United States for failure to file a proper reply to the NOTIFICATION OF MISSING REQUIREMENTS UNDER 35 U.S.C. 371 mailed 04 December 2000.

### **CONCLUSION**

For the reasons set forth above, applicants' petition under 37 CFR 1.181 is **DISMISSED** without prejudice.

For the reasons set forth above, the NOTICE OF ACCEPTANCE OF APPLICATION UNDER 35 U.S.C. 371 mailed 26 December 2001 is **VACATED**.

Please direct further correspondence with respect to this matter to Mail Stop PCT, Commissioner for Patents, Office of PCT Legal Administration, P.O. Box 1450, Alexandria,

Virginia 22313-1450, with the contents of the letter marked to the attention of the Office of PCT Legal Administration.

This application is being forwarded to the National Stage Processing Branch of the Office of PCT Operations to continue national stage processing of the application including preparation and mailing of a NOTIFICATION OF ABANDONMENT (Form PCT/DO/EO/909) indicating that the application is abandoned as to the United States of America for failure to timely reply to the NOTIFICATION OF MISSING REQUIREMENTS UNDER 35 U.S.C. 371 mailed 04 December 2000.



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